REMARKS

Applicant's attorney wishes to thank Examiner Ryckman for the careful consideration given this case. Claims 1-3, and 7-16 are pending in this application. Claims 1 and 10 have been amended. No new matter has been added.

35 U.S.C. § 112

Claims 10-12 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that the specification as originally filed does not describe a needle trap mechanism including a cylindrical sleeve mounted about the cannula. Applicant respectfully disagrees. Nonetheless, solely for the purpose of furthering prosecution, Applicant has amended claim 10 to recite "within said cannula" rendering the Examiner's rejection moot. The amendment to claim 10 removes an issue for appeal and requires only cursory review by the Examiner. Therefore, Applicant respectfully requests that the amendment be entered and the outstanding rejection withdrawn (MPEP 714.13).

35 U.S.C. § 103

Claims 1-3 and 7-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,860,991 to Klein et al. (hereinafter "Klein") in view of U.S. Patent No. 5,741,277 to Gordon et al. (hereinafter "Gordon"). The Examiner concedes that Klein does not teach needle holder arms as recited in the pending claims, but alleges that Gordon describes needle holder arms that are angled and connected to the distal end of the connecting rod that is operative to pivot the needle holder arms between a first and second position. Applicant respectfully disagrees.

Initially, Gordon fails to teach or fairly suggest "needle holder arms being angled and connected to the distal end of said connecting rod" as recited in independent claims 1 and 16, and therefore, fails to cure the conceded deficiencies of Klein. Specifically, as shown in FIGs. 4a, 4b, and 6 and described in the accompanying text, e.g., col. 18, lns. 8-20, Gordon teaches a mechanism in which needle guide 58 ("needle holder arms") pivot about pins 60 that are connected to the outer housing bosses 62. Thus, the needle guides of Gordon are connected to the housing and not connected to the distal end of the connecting rod as recited in independent claims 1 and 16. Additionally, the needle guides of Gordon are attached to deployment links 64a or b which are in turn connected to the pushrod 42 ("connecting rod"). Applicant respectfully asserts that the term "connected" should be construed as meaning that the needle holder arms directly connect to the connecting rod based on the description and figures provided in the specification and not attached via a deployment link (see, MPEP 2111.01).

Moreover, removing the deployment link and connecting the needle guides of Gordon to the connecting rod as presently claimed would destroy the functionality of the mechanism of Gordon because the needle holder arms would not reach the needle catch. In particular, as described above, the deployment link allows the needle holder arms which pivot around their connection to the housing to extend away from each other when the connecting rod is pushed downwardly. By removing the deployment link, the needle guides would either not pivot when the connecting rod is depressed because there is nothing linking movement of the connecting rod to movement of the needle guide, or if the needle guides are connected to the pushrod and one another within the cannula, the needle guides would not move when the needle holder is depressed because connecting the needle guides to the pushrod and the housing would create a barrier to any movement at all and any movement that could be produced would be

insufficient to allow the needle guides to reach the needle trap. The needles and consequently the ends of the suture would, thus, remain in the tissue if they deploy from the cannula at all. Furthermore, increasing the length of the needle guides would similarly destroy the functionality of the device of Gordon because needle guides of sufficient length to reach the needle trap given the significantly reduced range of motion allowed by modifying the mechanism of Gordon by removing of the deployment link could not be contained within the cannula and could not be inserted into a puncture site. Furthermore, there is no pivot point on the push rod of Gordon. Thus, removing the needle holders' connection to the housing would result in a device in which the needle guides merely dangle from the end of the pushrod with no mechanism for pivoting outward, and the functionality of the device would be destroyed. For at least these reasons, modifying the mechanism of Gordon to provide needle guides that are "connected to the distal end of said connecting rod" as recited in independent claims 1 and 16 would render the needle/suture complex of Gordon unsatisfactory for its intended purpose. (MPEP 2143.01).

For at least the reasons set forth above, Gordon fails to cure the deficiencies of Klein, and this combination of references fails to render independent claims 1 and 16 obvious. Claims 2, 3 and 7-15 either directly or indirectly depend on and add further limitations to amended independent claim 1 and are allowable for at least the same reasons as amended independent claim 1. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

CONCLUSION

In view of the amendments and remarks presented hereinabove, Applicant submits that the pending claims are in condition for allowance and respectfully request that they be passed to issue. Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, she is invited to contact the undersigned at her convenience.

In the event that any additional fees are required with this submission, the Commissioner is hereby authorized to charge or credit such fees to Deposit Account No. 50-0436.

RESPECTFULLY SUBMITTED,

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